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Attorney for Debtors HUERTA/MARTINEZ

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA, FRESNO

IN RE

ROBERTO HUERTA AND
KRYSTYNA MARIA MARTINEZ,

DEBTORS.

Chapter 13
Case No.: 23-12433A-13F
DC No. PBB-2

HEARING

ROBERTO HUERTA AND
KRYSTYNA MARIA MARTINEZ,

Movant,

vs.

CITIBANK, N.A. SUCCESSOR BY
ACQUISITION OF DEPARTMENT STORES
NATIONAL BANK,

Respondent.

Date: January 11, 2024
Time: 9:30 a.m.
Dept: A
Ct rm: 11 (5th Floor)
United States Bankruptcy Court
2500 Tulare Street
Fresno, California 93721-1318

HONORABLE JENNIFER E. NIEMANN

**DECLARATION OF ROBERTO HUERTA IN SUPPORT OF MOTION TO AVOID
JUDICIAL LIEN OF CITIBANK, N.A. SUCCESSOR BY ACQUISITION OF
DEPARTMENT STORES NATIONAL BANK**

1 I, Roberto Huerta, declare as follows:

2 1. I am an adult over the age of eighteen (18) years, competent to testify
3 about the matter set forth herein. I make this declaration of my personal knowledge and if called
4 upon to testify, I could competently testify to the facts stated herein.

5 2. I am the debtor in the above-captioned bankruptcy case, filed on October 31,
6 2023 pursuant to Chapter 13 of Title 11 of the United States Code, case number 23-12433.
7 Krystyna Maria Martinez is my wife and co-debtor herein.

8 3. The creditor holding the judicial lien that we wish to avoid is Capital One, N.A.
9 successor by merger of Department Stores National Bank (hereinafter "DSNB"). At the time we
10 filed our above-captioned bankruptcy case, we resided at 619 East Hopkins Avenue, Fresno,
11 California 93706 ("Residence"). Our Residence is situated in the City of Fresno, County of Fresno,
12 State of California, and described as parcel number 334-294-06 and as follows:
13

14
15 LOT 14, TRACT NO. 1826, EASTON VILLAGE, ACCORDING TO THE
16 MAP THEREOF RECORDED IN BOOK 20 PAGE 65 OF PLATS,
17 RECORDS OF SAID COUNTY.

18 4. Filed concurrently herewith as Exhibit "A" is a copy of our
19 Interspousal Transfer Deed recorded October 24, 2016 listing me as a "married man as his sole
20 and separate property". My wife holds a Community interest in our Residence.

21 5. Filed concurrently herewith as Exhibit "B" is a copy of page 1 of
22 Schedule A/B reflecting the total fair market value of our Residence at the time of our
23 bankruptcy filing was \$369,000.00. I believe the value of our Residence was and still is
24 \$369,000.00.
25

26 6. Filed concurrently herewith as Exhibit "C" is a copy of our Schedule
27
28

D which reflects the following encumbrances against our Residence:

House Value \$369,000.00	Dates	Current Amount Owed
Loancare LLC	Recorded 10/2016	\$170,464.00
Wells Fargo Bank NA	Recorded 11/30/2021	\$0.00
Department Stores National Bank	Recorded 12/05/2022	\$8,742.73

7. DSNB, Respondent, named in our Motion was duly listed as a creditor in our Schedules filed in support of our Petition herein and was served with notice of our bankruptcy proceeding.

8. Filed concurrently herewith as Exhibit "D" is a copy of the Abstract of Judgment recorded on behalf of DSNB. On October 12, 2022 DSNB, with the representation of attorney Donald Sherrill, entered a judgment lien in its favor and against me in case number 22CECL02165. On November 15, 2022 an abstract of judgment was subsequently issued and was recorded in Fresno County Hall of Records on December 5, 2022 as document number 2022-0145308.

9. Filed concurrently herewith as Exhibit "E" is a copy of our Schedule C which reflects our exemption under California Code of Civil Procedure §704.730 in the amount of \$340,000.00. I believe we are entitled to the exemption as claimed. I believe we meet all the requirements of the above-mentioned state statute and the requirements of 11 USC §522 and all of its subparts.

- a. We have owned and continuously resided in our Residence for more than 1,215 days prior to the filing of our Petition on October 31, 2023.
- b. I have never been convicted of a felony of any kind. Insofar as I am aware, neither has my wife.
- c. I do not have any debt which arose from the violation of Federal or State securities laws, or from the violation of any regulation or order issued under such laws. Insofar as I am aware, neither does my wife.

- 1 d. I do not have debt arising from fraud, deceit, or manipulation in a fiduciary
2 capacity or in connection with the purchase or sale of any registered security.
3 Insofar as I am aware, neither does my wife.
4
5 e. I do not owe any debt to anyone or to any entity as a result of a criminal
6 proceeding. Insofar as I am aware, neither does my wife.
7
8 f. During the past six years, I have not committed any criminal act, intentional
9 tort, or willful or reckless misconduct that caused serious physical injury or
10 death to another individual. Insofar as I am aware, neither does my wife.

11 10. At the time we filed the above-captioned bankruptcy case, our home was
12 worth \$369,000.00. After reducing our First Deed of Trust, judgment liens and our exemption as
13 allowed, there is no value remaining which would secure the judicial lien held by DSNB. We
14 wish to avoid all of the judgment lien of the Respondent.

15 11. By the time our Motion is heard more than 30 days' will have elapsed since
16 the conclusion of our Meeting of Creditors. I believe we are entitled to the homestead exemption
17 as claimed.

18 I declare under penalty of perjury that the foregoing is true and correct. This
19 Declaration is signed in Fresno, California.

20 Date: **NOV 21 2023**

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22 ROBERTO HUERTA
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